



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Dorman Nickels
County Attorney
Wharton County
Wharton, Texas

Dear Sir:

Opinion No. 0-3716

Re: Division of common school
district and consolidation
with another common school
district and independent
school district.

We acknowledge receipt of your letter of June 16, 1941, in which you request the opinion of this department upon the following question:

"Can a County Board of School Trustees divide an existing Common School District and attach one-half thereof to another Common school District and attach the remaining one-half thereof to an Independent School District without an election?"

We do not believe that the statutes cited in your opinion request relate to the question as stated. In that connection we call to your attention the recent decision of the Supreme Court of Texas in Cause No. 7731, County School Trustees of Orange County et al vs. District Trustees of Prairie View Common School District No. 8, in which the Supreme Court held unconstitutional Chapter 339, Acts 1935, 44th Legislature, and also held that Section 2 of Article 2742e, Acts 1929, 41st Legislature, 1st C. S., p. 259, Ch. 109, and Section 1 of Article 2742f, Acts 1929, 41st Legislature, 1st C. S., p. 106, Ch. 47, were to be construed together. These Acts, of course, relate only to the changing of boundaries or detaching territory from school districts as limited by the provisions therein set out. Provision is made for the consolidation of common school districts, common county line districts and independent school districts

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by Article 2742b, Section 5b, Vernon's Revised Civil Statutes, and Article 2806, Revised Civil Statutes of 1925. Section 5b of Article 2742b, supra, relates to the consolidation of school districts by election and provides that they shall be conducted in the manner prescribed by general law in Article 2806, Revised Civil Statutes, 1925.

We have considered carefully your opinion request and the problem therein presented. Since we have been unable to find any statutory authority for the procedure outlined and suggested, it is the opinion of this department that the question as above stated must be answered in the negative.

Yours very truly

APPROVED JUL 29, 1941

ATTORNEY GENERAL OF TEXAS

[Signature]
FIRST ASSISTANT
ATTORNEY GENERAL

By

[Signature]
Ross Carlton
Assistant

RC:ej



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